

## **Iconic Auckland Kauri faces chop after court ruling in multi-year battle**

**Thursday 4 April 2019:** Local residents are “gutted” at the Environment Court’s decision, released late yesterday, declining a Permanent Protection Order for the iconic Paturoa Road Kauri tree in Titirangi which “remarkably” survived a chainsaw attack three years ago. The ruling means it can now be felled by developers as early as 26 April 2019.

Named Awhiawhi by local iwi, the centuries-old Kauri became the focus of an outpouring of community support in 2015. There was a petition to Auckland Council of over 26,000; visits to the tree by local politicians including then Mayoral candidate Phil Goff; and prolonged occupations of the tree, firstly by activist Michael Tavares, and later by arborist John Smith. After an early morning ringbarking attack, while Smith was still in the tree, a rapid court intervention saw the chainsaws put on hold shortly before Christmas 2015.

Local residents Andrew Maehl and Winnie Charlesworth have since led a multi-year court battle to save the native from being felled.

“We are gutted to have lost in court,” says Charlesworth. “It has cost us a lot, we are exhausted and it seems so wrong that such a precious and loved tree, which miraculously survived attack, can now be cut down.”

Maehl and Charlesworth applied to the Environment Court in September 2018 seeking protection of the Kauri for Cultural, Scientific and Ecological reasons. Chris Pairama from Te Taou/Ngati Whaatua, Edward Ashby from Te Kawerau a Maki as well as Scientists Dr Nick Waipara, Dr Cate MacInnis-Ng, Dr Bruce Burns, Ecologist Dr Mark Bellingham and Tree Council Chair Sean Freeman, all supported long term protection of the Kauri.

Dr Nick Waipara and fellow Scientists were preparing to examine the Kauri should the protection from felling remain. Of specific interest to Scientists has been the ability of this Kauri to heal after Matauranga Maori Healing was applied to the ringbarked area of the Kauri, over three years ago. Dr Nick Waipara says “the tree is showing visible signs of health and recovery from ringbarking, and in my view the cultural, matauranga and scientific significance of this tree are now of significant interest and importance.”

Kauri are now listed as a “threatened Species” with Kauri Dieback spreading at an alarming rate throughout the Auckland region and the country. Awhiawhi shows no signs of the infection.

While The Environment Court acknowledged the tree had “remarkably survived” ringbarking due to Matauranga Maori procedures, and that the outcome would seem “extreme” and be “extremely disappointing to many citizens,” it ruled that it was bound by the laws passed by parliament which saw an amendment to the RMA in 2013 which removed the ability for a Council to have general blanket protection of trees within urban areas and instead required specific protections be put in place in a District Plan. Council lifted this Kauri’s protection, known

as a Sensitive Ecological Area Overlay, in 2015 at the owner, John Lenihan's, request. This took place shortly after Lenihan wrote a letter to the New Zealand Herald stating they would "let the trees stay." They have since fought hard for the right to fell the Kauri.

A Notable Tree Application, that could have provided protection for this Kauri and two more mature kauri on public land adjacent to Awhiawhi, has not been actioned by Council. The latest Court ruling suggests that "the remedy is either a plan change in accordance with the legislation or amendment to the RMA itself."

"We are now calling on Mayor Phil Goff and the Auckland Council to fast-track a Notable Tree status for Awhiawhi, which includes the two ancient Kauri on the Road Reserve that together form a group of three highly significant and mature Kauri, says Charlesworth. "The Court has said that the law does not protect such trees. We also call on Environment Minister David Parker and Conservation Minister Eugenie Sage to repair the RMA so that there can be blanket protection for Auckland's Kauri."

A High Court Judicial Review was discontinued having being only part heard in April 2017, when the landowners surrendered two Resource Consents. No Building Consent has ever been approved for the site despite this being why the developers want to fell the ancient tree.

Having fought so long Charlesworth and Maehl are feeling like their options have been exhausted and that the actions of Council in lifting the SEA protection in effect sealed the fate for this Kauri. "So now, after all this struggle, an iconic Kauri is free to be felled, at a time when Kauri as a species are threatened. And all for a development that, as far as we are aware, still has no Building Consent," says Charlesworth.

A further Resource Consent to make the site safe from slips by constructing a retaining wall, is expected to require the removal of two more ancient Kauri on the public road reserve.

"We have fought so hard on behalf of our community, and alongside local iwi and Scientists. It is on the Auckland Council's head now if this iconic Kauri, that has had a chainsaw at its base three times and survived, is simply allowed to be felled.

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